

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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CLERK-ALBUQUERQUE

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 05-1849 JH

DALE JARVIS, MELANIA KIRWIN, et al.

Defendants,

**DEFENDANT'S KIRWIN'S JOINDER IN DEFENDANT
AYLA JARVIS' MOTION FOR BILL OF PARTICULARS**

COMES NOW Defendant Melania Kirwin by her Court-appointed attorney, John F. Moon Samore, Esq., pursuant to the Rules, and particularly Fed R. Crim. P. 7(f), to join in Defendant Ayla Jarvis' Motion for Bill of Particulars as to count 3, and, to further, in support thereof, STATE:

1. She was a minor as a matter of law for 13 years since this conspiracy is alleged, by the Superseding Indictment to have commenced.

2. Based upon her minority, she cannot be held legally culpable for any acts occurring prior to that day. Allen v. United States, 150 U.S. 551, 558, 14 S. Court 1996, 1893.

3. From review of the evidence provided by the Prosecution to date, it appears that only the statements of two cooperating witnesses (CW1, CW 8) of the government may implicate Ms. Kirwin in the conspiracy.

4. In order to better prevent prejudicial surprise at trial and properly permit the defense to prepare for trial, the prosecution should be compelled to produce additional evidence, regarding how Ms. Kirwin advanced or assisted the alleged conspiracy. United States v. Rosa, 891 F 2d and 63 (Third Cir. 1989).

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United States v. Jarvis / Kirwin, et al.
Defendant's Kirwin's Joinder in Defendant
Ayla Jarvis' Motion for Bill of Particulars

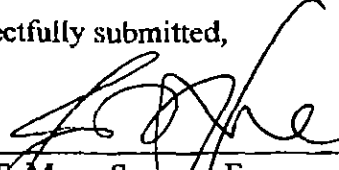
5. This additional evidence should include what alleged amount of marijuana is attributable to alleged conduct of Ms. Kirwin. United States v. Kendall, 766 F 2d, 1426 (Tenth Cir. 1985).

6. Additional citations of authority are included in the cited Motion for Bill Particulars which Ms. Kirwin joins.

7. The Prosecution by Assistant United States Attorney James Braun, Esq., is presumed to oppose this Motion but not oppose this joinder.

WHEREFORE, it is respectfully requested to join in Defendant's Ayla Jarvis' prayer for relief and that her Motion be sustained.

Respectfully submitted,



John F. Moon Samore, Esq.
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I hereby certify that a true and correct copy of the foregoing was sent by facsimile transcription or hand-delivered to the in-box of the U.S. Attorney's office this 30 day of Oct, 2006



John F. Moon Samore, Esq.